

**FY 2019**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**BLACK LUNG DISABILITY TRUST FUND**

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# BLACK LUNG DISABILITY TRUST FUND

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# BLACK LUNG DISABILITY TRUST FUND

(Including Transfer of Funds)

## APPROPRIATION LANGUAGE

*Such sums as may be necessary from the Black Lung Disability Trust Fund (the "Fund"), to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (6), and (7) of the Internal Revenue Code of 1986; and repayment of, and payment of interest on advances, as authorized by section 9501(d)(4) of that Act. In addition, the following amounts may be expended from the Fund for fiscal year 2019 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed \$38,246,000 for transfer to the Office of Workers' Compensation Programs, "Salaries and Expenses"; not to exceed \$31,994,000 for transfer to Departmental Management, "Salaries and Expenses"; not to exceed \$330,000 for transfer to Departmental Management, "Office of Inspector General"; and not to exceed \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.*

Note.—A full-year 2018 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2018 (Division D of P.L. 115–56, as amended). The amounts included for 2018 reflect the annualized level provided by the continuing resolution.

## BLACK LUNG DISABILITY TRUST FUND

<b>AMOUNTS AVAILABLE FOR OBLIGATION</b>						
(Dollars in Thousands)						
	<b>FY 2017 Enacted</b>		<b>FY 2018 Full Year C.R.</b>		<b>FY 2019 Request</b>	
	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>
<b>A. Appropriation</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>
Definite	0	\$70,926	0	\$69,527	0	\$70,926
Sequestration Reduction Pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985	0	-\$4,894	0	-\$4,589	0	\$0
Indefinite	0	\$316,707	0	\$353,449	0	\$257,256
<i>Subtotal, Appropriation</i>	<i>0</i>	<i>\$382,739</i>	<i>0</i>	<i>\$418,387</i>	<i>0</i>	<i>\$328,182</i>
Bond Repayment and Payment on Advances	0	\$1,303,126	0	\$1,670,968	0	\$1,731,961
<b>B. Gross Budget Authority</b>	<b>0</b>	<b>\$1,685,865</b>	<b>0</b>	<b>\$2,089,355</b>	<b>0</b>	<b>\$2,060,143</b>
Bond Repayment and Payment on Advances	0	-\$1,303,126	0	-\$1,670,968	0	-\$1,731,961
<b>C. Budget Authority Before Committee</b>	<b>0</b>	<b>\$382,739</b>	<b>0</b>	<b>\$418,387</b>	<b>0</b>	<b>\$328,182</b>
Bond Repayment and Payment on Advances	0	\$1,303,126	0	\$1,670,968	0	\$1,731,961
<b>D. Total Budgetary Resources</b>	<b>0</b>	<b>\$1,685,865</b>	<b>0</b>	<b>\$2,089,355</b>	<b>0</b>	<b>\$2,060,143</b>
<b>E. Total, Estimated Obligations</b>	<b>0</b>	<b>\$1,685,865</b>	<b>0</b>	<b>\$2,089,355</b>	<b>0</b>	<b>\$2,060,143</b>

# BLACK LUNG DISABILITY TRUST FUND

## SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2018 Full Year C.R.	FY 2019 Request	Net Change
<b>Budget Authority</b>			
General Funds	\$0	\$0	\$0
Trust Funds	\$418,387	\$328,182	-\$90,205
<b>Total</b>	\$418,387	\$328,182	-\$90,205

<b>Full Time Equivalents</b>			
General Funds	0	0	0
<b>Total</b>	0	0	0

Explanation of Change	FY 2018 Base		FY 2019 Change					
	FTE	Amount	Trust Funds FTE	Trust Funds Amount	General Funds FTE	General Funds Amount	Total FTE	Total Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	0	\$64,938	0	\$0	0	\$0	0	\$0
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>+\$64,938</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>
<b>B. Programs:</b>								
BLDTF Payment of Interest on Advances	0	\$12,850	0	\$15,240	0	\$0	0	\$15,240
Processing of Mandatory Workload - BLDTF	0	\$0	0	\$4,589	0	\$0	0	\$4,589
OALJ Increase to reduce BLDTF backlog	0	\$0	0	\$1,399	0	\$0	0	\$1,399
<b>Programs Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$21,228</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$21,228</b>
<b>Total Increase</b>	<b>0</b>	<b>+\$77,788</b>	<b>0</b>	<b>+\$21,228</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$21,228</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>
<b>B. Programs:</b>								
BLDTF Payment of Bond Interest	0	\$174,680	0	-\$110,792	0	\$0	0	-\$110,792
BLDTF Benefits	0	\$165,919	0	-\$641	0	\$0	0	-\$641
<b>Programs Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$111,433</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$111,433</b>
<b>Total Decrease</b>	<b>0</b>	<b>+\$340,599</b>	<b>0</b>	<b>-\$111,433</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$111,433</b>
<b>Total Change</b>	<b>0</b>	<b>+\$418,387</b>	<b>0</b>	<b>-\$90,205</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$90,205</b>

## BLACK LUNG DISABILITY TRUST FUND

<b>BUDGET AUTHORITY BY OBJECT CLASS</b>				
(Dollars in Thousands)				
	<b>FY 2017 Enacted</b>	<b>FY 2018 Full Year C.R.</b>	<b>FY 2019 Request</b>	<b>Diff. FY19 Request / FY18 Full Year C.R</b>
Departmental Management	29,787	28,576	31,994	3,418
Treasury Administrative Costs	331	332	356	24
Office of Inspector General	307	308	330	22
OWCP- Division of Coal Mine Workers	35,607	35,722	38,246	2,524
<i>Subtotal</i> <sup>1</sup>	66,032	64,938	70,926	5,988
Benefits	163,950	165,919	165,278	-641
Payment of Bond Interest	147,397	174,680	63,888	-110,792
Payment of Interest on Advances	5,360	12,850	28,090	15,240
<b>Total</b>	<b>382,739</b>	<b>418,387</b>	<b>328,182</b>	<b>-90,205</b>

<sup>1</sup> FY 2017 and FY 2018 levels reflect post-sequestration amounts. FY 2019 level reflects pre-sequestration amounts.

# BLACK LUNG DISABILITY TRUST FUND

## AUTHORIZING STATUTES

<b>Public Law / Act</b>	<b>Legislation</b>	<b>Statute No. / US Code</b>	<b>Expiration Date</b>
PUB. L. 91-173	Federal Coal Mine Health and Safety Act of 1969, (now called Federal Mine Safety and Health Act of 1977), Title IV, Black Lung Benefits Act, PUB. L. 91-173, Black Lung Benefits Revenue Act of 1977, PUB. L. 95-227, as amended in 1981 by PUB. L. 97-119	30 U.S.C. 901, <i>et seq.</i>	N/A
PUB. L. 107-275	Black Lung Consolidation of Administrative Responsibility Act and Section 3615 of the Emergency Supplemental Appropriations Act, 2003, PUB. L. 108-83	30 U.S.C. 801 note	N/A
PUB. L. 110-343	Emergency Economic Stabilization Act of 2008	26 U.S.C. 4121, 9501	N/A

## BLACK LUNG DISABILITY TRUST FUND

<b>APPROPRIATION HISTORY</b>					
(Dollars in Thousands)					
	<b>Budget Estimates to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriations</b>	<b>FTE</b>
2009					
Base Appropriation	\$1,074,000		\$1,072,000	\$9,320,683	0
Legislative Proposal	\$2,288,000				0
2010					
Base Appropriation...1/	\$300,099	\$302,408	\$302,408	\$302,494	0
2011					
Base Appropriation...2/	\$367,452	\$297,686	\$297,686	\$296,152	0
2012					
Base Appropriation...3/	\$300,495	\$301,415	\$301,415	\$295,000	0
2013					
Base Appropriation...4/	\$307,806			\$292,669	0
2014					
Base Appropriation...5/	\$316,559			\$312,305	0
2015					
Base Appropriation...6/	\$321,087			\$321,092	0
2016					
Base Appropriation...7/	\$341,467	\$341,466	\$341,467	\$313,192	0
2017					
Base Appropriation...8/	\$371,641			\$382,739	0
2018					
Base Appropriation...9/	\$418,801	\$415,162			
2019					
Base Appropriation	\$328,182				0

<sup>1/</sup> Appropriation does not include amount for exchange of assets transactions of \$353,424 for bond principal.

<sup>2/</sup> Appropriation does not include amounts for exchange of assets transactions of \$379,286 for bond principal and \$60,000 for short-term advances.

<sup>3/</sup> Appropriation does not include amounts for exchange of assets transactions of \$394,297 for bond principal and \$107,749 for short-term advances.

<sup>4/</sup> Appropriation includes sequestration amount of -\$2,999 and does not include amounts for exchange of assets transactions of \$396,403 for bond principal and \$214,000 for short-term advances.

<sup>5/</sup> Appropriation includes sequestration amount of -\$4,254 and does not include amounts for exchange of assets transactions of \$397,383 for bond principal and \$401,000 for short-term advances.

<sup>6/</sup> Appropriation includes sequestration amount of -\$4,701 and does not include amounts for exchange of assets transactions of \$395,769 for bond principal and \$541,696 for short-term advances.

<sup>7/</sup> Appropriation includes sequestration amount of -\$4,502 and does not include amounts for exchange of assets transactions of \$396,213 for bond principal and \$585,000 for short-term advances.

<sup>8/</sup> Appropriation includes sequestration amount of -\$4,894 and does not include amounts for exchange of assets transactions of \$393,126 for bond principal and \$910,000 for short-term advances.

<sup>9/</sup> A full-year 2018 appropriation for this account was not enacted at the time the budget was prepared.

# BLACK LUNG DISABILITY TRUST FUND

## OVERVIEW

The Black Lung Disability Trust Fund (BLDTF) was established by the Black Lung Benefits Revenue Act of 1977, as amended December 29, 1981, companion legislation to the Black Lung Benefits Reform Act of 1977, to shift fiscal responsibility for Black Lung benefit payments from the Federal Government to the coal industry. The BLDTF is jointly administered by the Secretaries of Labor, Treasury, and Health and Human Services and provides for payment of benefits, administrative expenses, and interest on advances related to the operation of the program. Resources for the Trust Fund are derived from: an excise tax on each ton of coal sold or used domestically; reimbursements from responsible mine operators for interim payments; interest, fines and penalties assessed to responsible mine operators; and short-term advances from the Treasury.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), enacted April 7, 1986, raised excise tax rates from \$1.00 to \$1.10 per ton on underground-mined coal and from 50 to 55 cents per ton on surface-mined coal, in either case not to exceed 4.4 percent of the sale price, through December 31, 1995. The Omnibus Budget Reconciliation Act of 1987 continued that tax structure until 2014. The Emergency Economic Stabilization Act of 2008 (the EES Act), enacted on October 3, 2008, authorized the restructuring of the BLDTF debt by:

- (1) extending current coal excise tax rates of \$1.10 per ton on underground-mined coal and \$0.55 per ton on surface-mined coal until December 31, 2018 (and then reverting to the 1978 levels, or \$0.50 per ton on underground coal, and \$0.25 per ton on surface coal);
- (2) providing a one-time appropriation for the BLDTF to repay the market value of parts of the outstanding repayable advances and accrued interest; and
- (3) refinancing the remainder of the outstanding debt through the issuance of zero-coupon bonds.

Pursuant to the Act, these amounts are to be retired using the BLDTF's annual operating surpluses until all of its remaining obligations have been paid. Pre-payments will be made when operating surpluses exceed the amount of the zero-coupon bond, and short-term borrowing authority will be utilized if operating surpluses are not sufficient.

Based on the current-law estimates for coal tax receipts, \$1,766,743,000 in short-term borrowing authority will be required in FY 2019 to fund obligations and exchange of assets amounts. This is a projected increase in borrowing authority necessitated by a combination of declining coal tax revenue estimates and increasing interest rates. This amount plus estimated interest of \$44,875,000 will be repaid in FY 2020.



## BLACK LUNG DISABILITY TRUST FUND

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE<sup>2</sup></b>				
(Dollars in Thousands)				
	<b>FY 2017 Enacted</b>	<b>FY 2018 Full Year C.R.</b>	<b>FY 2019 Request</b>	<b>Diff. FY19 Request / FY18 Full Year C.R.</b>
Activity Appropriation	382,739	418,387	328,182	-90,205
FTE	0	0	0	0

<sup>2</sup> FY 2017 levels reflect post-sequestration amounts. FY 2018 and FY 2019 levels reflect pre-sequestration amounts.

### **Introduction**

The Trust Fund pays all Part C Black Lung benefits, including income maintenance and medical benefits, when no coal mine operator can be held liable for payments. Income maintenance payments are based on 37.5 percent of the GS-2, Step 1 salary level. The Trust Fund also pays for the costs incurred by the Department of Treasury collecting the coal excise tax and managing the Trust Funds, for the costs of the appeals process to the Office of Administrative Law Judges (OALJ) and the Benefits Review Board (BRB), legal costs associated with the Solicitor of Labor (SOL), and for costs incurred by the Office of Inspector General (OIG). Black Lung benefits for claims filed on or before December 31, 1973 are paid under the appropriation for Special Benefits for Disabled Coal Miners, also referred to as Black Lung Program Part B.

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2014	\$312,305	0
2015	\$321,092	0
2016	\$313,192	0
2017	\$382,739	0
2018	\$0	0

NOTE: A full-year 2018 appropriation for this account was not enacted at the time the budget was prepared.

### **FY 2019**

In order to meet estimated obligations for Part C of the Black Lung Program, the FY 2019 President's Budget level is \$328,182,000. The amounts for definite obligations include the following amounts to be transferred: \$38,246,000 for the Office of Workers' Compensation Programs' (OWCP) Salaries and Expenses costs associated with administering the Black Lung Program, which are discussed in OWCP's Salaries and Expenses section of the budget; \$31,994,000 for the administrative costs of the Departmental Management (DM) account including adjudication activities and legal services which are discussed in the DM section of the budget; \$330,000 for OIG administrative costs; and \$356,000 for the Department of Treasury. Estimated amounts for indefinite obligations include: \$165,278,000 for benefit payments; \$63,888 for payments of bond interest; and \$28,090 for interest on short-term advances.

## **BLACK LUNG DISABILITY TRUST FUND**

The requested amount does not include amounts for exchange of assets transactions. These include \$117,606,000 for payment of bond principal and \$1,614,355,000 for repayment of estimated short-term advances. In addition to coal tax receipts and other income, an estimated \$1,766,743,000 in short-term advances will be required to fund obligations and exchange of assets transactions.

BLDTF's FY 2019 Budget level will provide necessary funding to keep pace with high workload volumes. While beneficiary counts have been declining in the Black Lung Program, the average number of incoming claims received remains high. New claims volumes for FY 2019 are expected to reach 7,000.

The BLDTF is statutorily required to pay benefits when a self-insured coal mine operator is insolvent and cannot meet its benefit payment obligations. Difficult-to-predict bankruptcies pose a challenge for the program. See discussion below regarding the impact of coal mine operator bankruptcies in FY 2017.

### **FY 2018**

A full-year 2018 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2018 (Division D of P.L. 115–56, as amended). The amounts included for 2018 reflect the annualized level provided by the continuing resolution. The Department will provide an Operating Plan after a full-year appropriation bill is enacted.

### **FY 2017**

In FY 2017, the Trust Fund paid benefits and ongoing medical treatment costs and the administrative expenses of Black Lung Part C program operations, adjudicatory and litigation costs. Monthly compensation and ongoing medical treatment benefits were paid from the BLDTF to 15,125 recipients, a 6 percent decline from FY 2016, which is low when compared to the historical decline of roughly 12 percent in 2014 and the prior six-year average decline of 9 percent. The program monitored cash and medical treatment payments disbursed in the private sector by coal mine operators to approximately 5,000 additional recipients under Part C; and processed 7,386 new incoming claims. Large operator bankruptcies are especially challenging because benefits for hundreds or thousands of beneficiaries must be transferred under tight time constraints to ensure that there are no disruptions to monthly and medical benefit payments to beneficiaries. In FY 2017, approximately 2,614 additional bankruptcy-related claims were handled by the District Offices. Additional detail regarding work associated with this program can be found in the workload summary discussion for the Division of Coal Mine Workers' Compensation (DCMWC).

### **Workload Summary**

In FY 2019, the requested resources will continue to provide for the payment of benefits and ongoing medical treatment costs and the administrative expenses of Black Lung Part C program

## **BLACK LUNG DISABILITY TRUST FUND**

operations, adjudicatory and litigation costs. Monthly compensation and ongoing medical treatment benefits will be paid from the BLDTF to an estimated 14,300 recipients in FY 2019. The program will monitor cash and medical treatment payments disbursed in the private sector by coal mine operators to approximately 5,000 additional recipients under Part C; and will process an estimated 7,000 incoming claims. Greater detail on workload associated with this program can be found in the workload summary discussion for the Division of Coal Mine Workers' Compensation (DCMWC).